



South Carolina House of Representatives

# Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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## Legislative Update, December 1991

### Results of the 1991 Issues Survey

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Last it did last year, reapportionment topped the list of issues in this year's membership survey of priority issues for the 1992 session. The national preoccupation with health care and health insurance also is reflected this year's results. Also ranked high on the list are reform efforts, such as the reorganization of the State Highway Department and reform of the state Department of Social Services.

#### How the Survey Was Conducted

This was the sixth year the House Research Office conducted an issues survey of the membership prior to the opening of the session. The surveys were mailed to the members November 21. Deadline for returning the surveys was Friday, December 6.

This year's response rate was down slightly from last year. Of the 120 members surveyed, 71 surveys were returned for a response rate of 59.2 percent. This was down from the 73 percent response rate given the 1990 issues survey.

As in years past, House members were asked to rank a wide range of issues, 28 in all. The issues used in the survey were compiled by the House Research Office from the committee staffs as well as other sources. A scale of 1 to 5 was used to rank the priority of the issue, with 5 representing the highest priority and 1 the lowest.

In addition, space was provided for House members to list any priority issue not appearing on the list provided. The representatives also were asked to name the top three issues for the 1992 session. This allows them to include in the top three issues any topic not contained in the 28 issues listed in the survey.

It is important to note that the survey results in no way reflect how House members will vote on a particular bill. Rather, the sample is an indication of what issues responding House members think should be given priority attention during the upcoming legislative session.

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### **How the Issues Ranked**

Of the 28 topics House members were asked to rank, here is how the issues fared. The brief description, which appeared in the survey, is repeated here for better understanding of the issues. Following this list are graphs showing how each issue scored.

1.    **Reapportionment**  
      Create congressional and legislative districts based upon 1990 census figures.
2.    **Health Insurance and Health Care Access**  
      Increase availability of health insurance and health care to South Carolinians.
3.    **Highway Department Reorganization**  
      Restructure the Highway Commission and reorganize the department, including consideration of the department's continued fiscal autonomy.
4.    **Department of Social Services Reform**  
      Establish criteria for evaluating the quality of services provided by the department and county offices.
5.    **Tax Exemptions and Ceilings**  
      In a no growth budget year, examine current exemptions and ceilings on some state taxes.
6.    **Prenatal Exposure to Controlled Substances**  
      Develop treatment plans to reduce the use of drugs and alcohol by pregnant women in South Carolina.
7.    **Restructuring of State Government       (tied)**  
      Restructure state government to a cabinet form of government.
- Repeal Mandate to Write**  
      Repeal requirement that insurance companies sell automobile insurance to every driver who has a license and can pay the premium.
8.    **Repeal Compulsory Automobile Insurance       (tied)**  
      Repeal law that requires drivers to buy automobile insurance in order to register and operate a vehicle on the state's highways.

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### **Toxic Use Reduction Act**

Establish a statewide goal of reducing toxic waste generated by 50 percent by the year 1999.

9. **Barnwell Nuclear Waste Facility**  
Extend the scheduled closing deadline for the Barnwell low level nuclear waste disposal facility beyond December 31, 1992.
10. **Chemicals Right to Know Act**  
Require industries that use, manufacture, store, process or produce hazardous chemicals to maintain a hazardous chemicals list.
11. **HIV/AIDS Testing**  
Adopt guidelines for preventing the transmission of the HIV/AIDS virus, including possible testing of health care professionals and/or patients.
12. **Mandatory Driver's Education**  
Require successful completion of a driver education course to obtain an initial driver's license.
13. **Driving Age**  
Raise the age to obtain a driver's license from 16 to 17 and a beginner's permit from 15 to 16.
14. **Consolidated Government (tied)**  
Enabling legislation to allow local governments to consolidate services.
- No Fault Automobile Insurance**  
Adopt a system in which the insured collects from his own insurance company, and lawsuits for pain and suffering are prohibited.
15. **No Fault Choice**  
Adopt a system in which the insured chooses between retaining his regular liability insurance and the right to sue or No Fault coverage and limited right to sue.
16. **Wetlands Protection (tied)**  
Protect the state's wetlands through management programs and implementation of a "no net loss" policy.
- Worker's Compensation Insurance**  
Further changes in worker compensation law with an eye toward cost reduction and increased availability.

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17. **Judicial Selection**  
Restructure the way judges are currently selected.
18. **School Breakfast Program**  
Require the 360 public schools, currently without a school breakfast program, to begin one.
19. **Human Life Protection Act**  
Whether the state should place restrictions on abortions.
20. **Seat Belts**  
Change the state seat belt law from secondary enforcement to primary enforcement.
21. **School Nurse-to-Student Ratio**  
Provide one school nurse for every 750 students to be phased-in over four years. Currently, public schools are not required to have school nurses.
22. **Student Advisement of College Options**  
Provide information and counseling to 8th grade students and their parents about college options.
23. **Annexation**  
Amend state law to allow for additional methods of municipal annexation.
24. **Railway Revitalization**  
Preserve railroad rights-of-way for future mass transit systems, with use of the corridors for bike and hiking trails in the interim.

### How the 28 issues were ranked

Each issues was ranked by computing the number of votes it received in each of the 1 to 5 priority rankings. With the number of responding House members, the highest possible score was 355, the lowest, 71. For example, the top rated issue, reapportionment, received a score of 350. This score was computed by multiplying by 5 the 67 "five" priority votes the issue received; by 4 the 3 "four" priority votes, and so on. Answers in the "no opinion" column were not used. By computing a weighted score for each issue, they could be fairly compared and ranked.

The following chart shows each issue in order of priority ranking and the number of votes it received in each category. The "no opinion" votes are not shown since they count nothing toward the total score.

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Potential Issue	Priority					Total
	High 5	4	3	2	Low 1	
Reapportionment	67	3	1	0	0	350
Health Insurance and Health Care	40	22	8	1	0	314
Highway Department Reorganization	35	16	10	6	3	284
Dept. of Social Services Reform	22	26	16	2	1	267
Tax Exemptions and Ceilings	20	23	16	9	2	260
Prenatal Exposure Controlled Subs.	17	22	23	8	0	258
Restructuring State Government	27	16	12	4	12	255
Repeal Mandate to Write	27	18	10	6	6	255
Repeal Compulsory Auto Insurance	35	9	6	5	11	250
Toxic Use Reduction Act	18	21	18	10	2	250
Barnwell Nuclear Waste Facility	28	15	9	5	12	249
Chemical Right to Know	14	21	28	3	2	246
HIV/AIDS Testing	16	17	26	8	3	245
Mandatory Driver's Education	17	20	19	8	6	244
Raise the Driving Age	17	20	12	14	6	235
Consolidated Government	13	18	22	14	2	233
No Fault Automobile Insurance	19	23	8	5	12	233
No Fault Choice	16	20	16	7	9	231
Wetlands Protection	9	23	23	8	5	227
Workers Compensation Insurance	12	19	21	12	4	227

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Potential Issue	Priority					Total
	High 5	4	3	2	Low 1	
Judicial Selection	13	24	14	5	12	226
School Breakfast Program	10	11	28	13	8	212
Human Life Protection Act	17	12	16	5	20	211
Seat Belts	10	17	13	13	16	199
School Nurse-to-Student Ratio	7	10	20	24	10	193
Student Advisement, College Options	7	10	18	25	10	189
Annexation	7	8	21	16	16	178
Railway Revitalization	6	9	17	20	14	171

### Other Issues

Besides the list of 28 issues in the survey, House members added a number of their own.

The following are issues added by responding House members. The issues are arranged in broad categories.

- State Budget
- Economic Issues--provide opportunities for jobs rather than hand outs.
- Correcting inequities in tax structure
- A revamped budgetary process whereby all base dollars, as well as growth dollars, are given primary and equal priority consideration to shape the state's fiscal direction.
- Education reform
- Adult education--provide financial and other resources to improve the literacy level in this state.
- Financial support of education & salaries, buildings and transportation
- State run primary bill

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- Shorter legislative session; even though House has passed version, this needs to be pushed for passage.
- Health care for indigents
- Repeal of Budget and Control Board's right to stabilize health care costs.
- Increased funding for protection of cultural and historical heritage of South Carolina. South Carolina is increasingly a state which relies on tourism, and its marvelous history is being put at risk by inadequate funds to preserve and protect it.
- Hazardous waste reduction, particularly from North Carolina
- Kathleen Kempe's bill requiring notice to residents of industry which affects air quality.
- Storm water run-off regulations -- Land Resources Commission.
- Five cent gasoline tax consideration for primary road construction.
- Energy conservation/efficiency as state policy.
- Vicious Animal Act (amend Vicious Dog Act)

### **Naming the Top Three Issues**

As the final part of the survey, House members were asked to name the top three issues of the upcoming legislative session. About half the responding House members answered this part of the survey. Not surprisingly, the results of this survey section correspond in general with the results of the top ten priority listing with some slight changes.

The top three issues listed by House members were:

1. Reapportionment
2. Automobile Insurance Reform
3. Restructuring State Government

While these issues change places slightly from the ranking they received in the priority scoring, this probably can be attributed to the wide spectrum of topics each of the above issues can include.



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For example, restructuring state government could include both reform of the Highway Department (priority ranking #3) and the Department of Social Services (priority ranking #4). Repealing the mandate to write (priority ranking #7) and repeal of compulsory automobile insurance (priority ranking #8) easily fall under the broad category of automobile insurance reform. At any rate, these three issues seem to be at the top of the list of concerns held by many House members.

In addition, other issues frequently mentioned for the top three listing include:

- Budget Issues
- Health Care and Health Insurance
- Barnwell Nuclear Waste Facility
- Education Reform

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### **Background on the Top Ten Issues**

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To assist House members with upcoming speeches, newsletters and constituent correspondence, here is some background information on the top ten issues named in this year's membership survey. Thanks is given to the staffs of the House standing committees for providing information on these issues.

#### **1. Reapportionment**

The reapportionment of House and Senate districts and of the six Congressional districts based upon the 1990 Census is the most important task facing the legislature in 1992.

In late May of 1991, the House passed the House redistricting plan. It is presently pending in the Senate Judiciary Committee. The House plan for congressional redistricting has been dealt with by a subcommittee of the House Judiciary Committee. The Senate has passed a Senate redistricting plan and its plan for congressional redistricting. Congressional redistricting and the Senate redistricting plan will be taken up by the full Judiciary Committee early in the 1992 session.

#### **2. Health Insurance and Health Care Access**

More than 400,000 South Carolinians are not covered by public or private health insurance. Many of these people are employees of small businesses, which have been priced out of the health insurance marketplace or have been forced to reduce such benefits to their employees. Medicaid covers only about 40 percent of those whose income is below the poverty level. At the same time, health care costs are rising more than 10 percent per year.

The lack of health insurance severely limits access to health care services for these people. Many citizens end up receiving services in hospital emergency rooms, and the costs are shifted to the hospitals' paying patients. Legislative attention may focus on attempting to provide affordable health coverage for these working uninsureds.

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In the absence of any proposed national health care plan, some states are taking the initiative to develop their own programs. Hawaii, a front-runner in this area, set up an employer based health insurance program in 1974. Employers there are required to provide health care coverage or pay to fund an insurance pool. Massachusetts's 1988 Health Security Act is also based on the "pay-or-play" concept.

Some states are considering the establishment of a single-payer program rather than revamping the existing insurance system. Other states are looking for ways to reform the insurance industry to make coverage more affordable for the small group market. Connecticut has a new law that prohibits medical underwriting and creates a reinsurance facility to spread the cost of insuring high risk individuals.

Still other states are developing no-frills benefit plans that will provide basic coverage at a low cost. Advocates for this approach argue that a basic package, without mandated "extra" benefits, would make health insurance affordable for more small employers. Some of these states plan to offer small businesses tax breaks or other financial incentives to provide this type of coverage.

The S.C. Health and Human Services Finance Commission is using a \$7.2 million federal grant to develop and implement a demonstration project to provide a managed care Medicaid health insurance program for low-income employees and their dependents in our state. The three year project will be available to small employers in Horry and Marion counties. The program's objectives are to make health insurance more affordable for employers, improve access to health care, and to hold down costs through managed care.

### **3. Highway Department Reorganization**

The fate of the South Carolina Department of Highways and Public Transportation will be a matter of debate by the General Assembly in 1992. The continuing controversy plaguing the department has made it a focal point in the call for government reorganization.

The two primary areas of concern are:

#### **(1) SCDHPT's Organization and Structure:**

All proposals for reorganizing the department call for a reduction in the size of the current 20-member commission. Several plans would have the director of the department chosen by the governor pursuant to a cabinet form of government.

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Others recommend retaining the commission but reducing its size to 11 or seven. These proposals have the commission members elected by the General Assembly at-large from each congressional district or certain proposed highway districts. Examination also will be made of proposals for splitting the department into two separate entities.

### **(2) Fiscal Accountability:**

Nearly all state agencies are funded by state General Fund monies. The department, however, receives the bulk of its revenue is from its own State Highway Fund, that totaled \$476.8 million for the 1989-90 budget year.

Some consider the department's budgetary autonomy and "lump sum" status to have resulted in unresponsiveness to the General Assembly and to have permitted a lack of accountability. These points will be addressed.

## **4. Department of Social Services Reform**

Several members of the General Assembly requested the Legislative Audit Council to conduct a limited-scope review of the South Carolina Department of Social Services. The review, released in May, focused on child protective services, foster home licensing, agency administration, and public accessibility. The final report included several findings that indicated problem areas within the agency. The State Reorganization Commission is now in the process of conducting a compliance review for the agency's response to the LAC report.

H.3624, currently pending in Subcommittee V of the Medical, Military, Public and Municipal Affairs Committee, would mandate the State Department of Social Services to establish written criteria for evaluating the quality of services provided by each county Department of Social Services. The bill requires that county directors, county advisory council chairmen, and other knowledgeable persons be involved in drafting the evaluation guidelines. An advisory committee would be established to assist in the design of the review procedure and to make recommendations to the State Board of Social Services.

Beginning in January 1994, the bill would require the state department to evaluate each county department annually. A county director would have to submit a corrective action plan to the state board if the county department does not meet the criteria set in this bill. The state board would review, and could amend, the county corrective action plan. A county director could be

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disciplined or terminated as a part of a corrective action. The state board also would have the option of holding the county department's funds in escrow during implementation of a corrective action plan. Funds could be released for particular programs as the county department comes into compliance with the corrective plan.

### **5. Tax Exemptions and Ceilings**

Like many other states, most of South Carolina's revenues are generated by two main tax sources -- the sales tax and the income tax. Since 1984-85, the General Assembly has enacted a number of law changes that have had an impact on revenue raising, as noted in the December budget briefing report published by the House Ways and Means Committee. Tight budget times traditionally have prompted discussions regarding the tax exemptions and ceilings currently allowed under state law as possible means of raising additional revenue.

One change that frequently generates discussion is the \$300 cap on motor vehicle sales tax, sometimes referred to as the "Mercedes amendment." Tied to the 1984 passage of the 1 percent sales tax increase to fund the Education Improvement Act, the tax cap limits the state sales tax to \$300 on all motor vehicles costing \$6,000 or more. This cap is not just on the sale of automobiles, but also on aircraft, motorcycles, boats, trailers, recreational vehicles, semitrailers and purchases of office equipment and musical instruments by churches. The committee briefing report contains information on the fiscal impact of changes to this cap. According to Ways and Means Committee figures, raising the motor vehicle sales cap to:

- \$ 500 would generate \$20 million;
- \$1,000 would generate \$38.5 million;
- \$1,500 would generate \$41.7 million.

These figures reflect the total revenue raised, including EIA funds.

In another instance, discussion has already begun in connection with the discount allowed businesses for the timely filing of tax returns. According to Ways and Means figures, this sales tax discount results in a revenue loss of \$27.2 million. Under this discount, businesses are allowed to keep 2 percent of the sales tax collected, up to a maximum of \$10,000, if the tax is remitted in a timely manner. The Budget and Control Board, in its budget recommendations approved this month, has proposed changes to this discount that would reduce the maximum kept to \$3,000 instead of the current \$10,000. It is estimated that this change would generate an additional \$5.6 million for the General Fund and \$1.4 million for the EIA.

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### **6. Prenatal Exposure to Controlled Substances**

The State Council on Maternal, Infant and Child Health (MICH Council) recently issued the 1991 South Carolina Prevalence Study of Drug Use Among Women Giving Birth. According to the study, one in four South Carolina infants is born to a mother who uses alcohol, illicit drugs, or nonprescription drugs.

The results of the MICH Council study have serious implications for the health of these infants and their mothers and for spending priorities in our state. Drug and alcohol exposed babies are at a much higher risk for a variety of health problems, ranging from low birth weight to severe mental retardation and physical abnormalities. They also are more likely to require neonatal intensive care initially, and social services and special education services throughout childhood. According to the MICH Council study, many of these infants incur medical costs in excess of \$50,000 in just their first year of life.

Several states have created task forces or enacted legislation to try to deal with this problem. Since 1989, eight states (Florida, Illinois, Indiana, Massachusetts, Minnesota, Nevada, Oklahoma and Utah) have passed laws defining prenatal drug exposure as child abuse or neglect.

H.3858, currently pending in the House Medical, Military, Public and Municipal Affairs Subcommittee I, defines prenatal exposure to controlled substances as child abuse.

It would authorize any person to make a report to the Department of Social Services if that person knows or has reason to believe that a pregnant woman has used a controlled substance for a nonmedical purpose during her pregnancy. The department would then be required to investigate, develop a treatment plan, and offer appropriate services to the pregnant woman if needed.

The bill also provides for testing procedures, voluntary and involuntary alcohol and drug abuse commitment, confidentiality protections, and immunity from civil or criminal liability for those who make these reports or assessments. H.3858 specifies that no information obtained through these reports and tests may be used as evidence in a criminal proceeding regarding possession or use of a controlled substance.

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### **7. Restructuring of State Government (tied)**

In March 1991, an executive order was issued establishing the Commission on Government Restructuring. The commission's purpose was to develop a long term plan to restructure the state's government to provide more efficiency, effectiveness and accountability in state services to the people. The commission found that South Carolina's current structure is full of fragmentation, duplication of effort, ineffective allocation of scarce resources, and a lack of administrative accountability to anyone. As a result, the commission has recommended a cabinet form of government in its restructuring plan presented to the governor. This would establish a system whereby the elected chief executive is responsible for the administration of government departments, and agencies and government departments and agencies are accountable to the chief executive. Such a comprehensive restructuring of state government can only be accomplished over a period of time. Therefore, the commission has proposed a restructuring implementation plan consisting of five stages over the next several years.

In order for restructuring to occur, legislation will need to be introduced to modify existing laws. In 1992 -- stage two of the plan -- the commission recommends a statewide referendum proposing a change in the State Constitution to provide for a maximum number of executive cabinets. In addition, the referendum would propose a state constitutional amendment to allow for the appointment, rather than the election, of the Adjutant General, the state Superintendent of Education, and the Commission of Agriculture.

#### **Repeal Mandate to Write**

The Mandate to Write means that every insurance company that writes automobile insurance in South Carolina is required to provide coverage for any licensed driver who applies for private passenger automobile insurance as long as he has a valid driver's license and can pay the premium.

Some supporters of repealing the mandate argue that it will encourage companies to compete for the "best risks" by lowering rates. Without the mandate to write in place, companies would be able to use subjective underwriting and could turn away drivers that they determined to be high risk. Criteria used to determine high risk drivers might include age, sex, marital status, the type of car driven, whether or not a person lives in a high crime area, and the number of miles driven to work each day.

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These drivers would then have to go to "high risk" insurers to buy their insurance at a greater cost. This would also mean that some persons might not be able to find insurance or at least affordable insurance, which would lead to problems if a compulsory insurance system was retained in this state after the mandate was lifted.

### **8. Repeal Compulsory Automobile Insurance (tied)**

Compulsory insurance means that the law requires every vehicle in our state to be covered by a liability insurance policy, with some exceptions, before it is driven on our highways. South Carolina has been a compulsory insurance state since 1974.

Under a non-compulsory insurance system, vehicles can be legally operated without insurance. The State would also save money in the form of reduced administrative cost since compulsory insurance laws will no longer have to be enforced.

However, repealing compulsory insurance will likely increase the number of uninsured vehicles on the highways which means that those persons who do choose to continue to purchase automobile insurance will likely see an increase in their uninsured and underinsured motorist premiums.

In addition, this higher number of uninsured motorists will increase the likelihood of accidents involving two uninsured motorists. In cases where neither motorist involved has insurance or other assets to recover against, the State, and ultimately the taxpayer, will end up picking up the tab for the damages resulting from the accident, including hospital and medical expenses and potentially social assistance benefits for long-term disability.

### **Toxic Use Reduction Act**

Pending before the House Agriculture, Natural Resources and Environmental Affairs Committee, this legislation establishes a statewide goal of reducing toxic waste generated by 50 percent by the year 1999. The bill also mandates that in no event may DHEC authorize implementation of a plan, strategy or technology less protective of the environment than required by an applicable federal statute, regulation, permit, license or plan approval.

The legislation establishes strict guidelines for monitoring toxics uses by establishment of advisory boards and research institutes, as well as establishing a toxics uses reduction fund.



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### **9. Barnwell Nuclear Waste Facility**

The Barnwell low-level nuclear waste facility is scheduled by law to cease operation on December 31, 1992. Under the provisions of the Southeastern Compact, North Carolina has been selected to host the next site but has made little progress in developing a facility. There will be strong pressure on the State of South Carolina by other states to keep the Barnwell facility open beyond its scheduled closure date. This closing also will result in the loss of revenue to the General Fund in the amount of approximately \$18 million, based on current volume.

Pending before the House Agriculture, Natural Resources and Environmental Affairs Committee, H.3003 would extend the time period that low level radioactive waste could be accepted at the Barnwell Regional Disposal Facility from December 31, 1991 to December 31, 1994.

### **10. Chemicals Right to Know**

Pending before the House Agriculture, Natural Resources and Environmental Affairs Committee, this bill would require that any person who manufactures, processes, uses, stores or produces hazardous chemicals compile and maintain a hazardous substance list, containing the following information for each hazardous chemical normally used or stored in a facility in quantities of .55 gallons or 500 pounds, whichever is greater.

- 1) The chemical name or common name used on the material safety data sheet or the container name;
- 2) The approximate range of quantity of each chemical;
- 3) The area in the facility in which the chemical normally is stored and to what extent the chemical may be stored.

The legislation also provides that any person in this state may request, in writing, a hazardous substance list from a facility.